

Remarks

Claims 1-20 were pending. Applicants have canceled claims 2-3 and 15-20 without prejudice to Applicants' right to pursue their subject matter in the present application and in related applications.

Applicants have amended claim 1 to recite asthma and chronic airway remodeling and to delete unnecessary words. Support for the amendment is found at least in original claims 2 and 3. Applicants have amended claims 4, 8, 11 and 12 to depend directly from claim 1. Applicants have amended claim 14 to delete unnecessary words.

Applicants have added new claims 21-25. Support for new claim 21 is found at least in original claims 1-3 and 10 and in paragraphs [0065]-[0068] and [0181]. Support for new claim 22 is found at least in original claim 13. Support for new claim 23 is found at least in paragraphs [0141] and [0181]. Support for new claim 24 is found at least in original claim 12. Support for new claim 25 is found at least in paragraphs [0065]-[0068], [0082], and [0125] and following.

Applicants submit these amendments introduce no new matter into the application.

Upon entry of the present amendment, claims 1, 4-14 and 21-25 will be pending and presented for examination.

Information Disclosure Statement

According to the Office action, the International Search Report (ISR) listed on the information disclosure statement filed April 15, 2005 was not considered because the ISR is not a publication.

Applicants respectfully submit that information listed on an information disclosure statement need not be a publication and that Applicants are entitled to have the information considered. For example, 37 C.F.R. § 1.98(a)(1) provides that any information disclosure statement filed under § 1.97 shall include a "list of all patents, publications, applications, *or other information submitted for consideration by the Office*" (emphasis added). Applicants also note that M.P.E.P. § 609 expressly provides that Applicants may want the Office to consider information considered by another patent office in a counterpart or related patent application. M.P.E.P. § 609 also provides: "Once the minimum requirements of 37 CFR 1.97 and 37 CFR

1.98 are met, the examiner has an obligation to consider the information. There is no requirement that the information must be prior art references in order to be considered by the examiner.”

Applicants therefore request that the Office consider the ISR, which was prepared by a patent office for a counterpart patent application.

Rejections under 35 U.S.C. § 102 based on U.S. Patent Application Publication No. US 2004/0057926 (“Ochoa”)

Claims 1-4, 6, 12-14 and 20 stand rejected as allegedly anticipated by Ochoa. Applicants have canceled claims 2, 3 and 20 without prejudice and have amended claim 1 to recite a method comprising administering an agent to a mammal which has a disease selected from the group consisting of asthma and chronic airway remodeling. Ochoa does not teach administering an agent to a mammal which has asthma or chronic airway remodeling. Ochoa therefore cannot anticipate any of claims 1, 4, 6, or 12-14.

Applicants request reconsideration and withdrawal of the rejections.

Applicants also note that at least new claims 21-25 are entitled to the priority claim of March 4, 2003. Applicants submit that Ochoa is not available as a prior art reference against new claims 21-25 earlier than its actual filing date of March 12, 2003. (For example, the paragraph of Ochoa on which the Office action relies for a teaching relating to chronic obstructive pulmonary disease does not appear to exist in the same form in the provisional patent application to which Ochoa claims priority.) Accordingly, Ochoa cannot affect the patentability of new claims 21-25.

Rejections under 35 U.S.C. § 102 based on International Patent Application Publication No. WO00/44766 (“MacLeod”)

Claims 1-4, 6, 12-14 and 20 stand rejected as allegedly anticipated by MacLeod. Applicants have canceled claims 2-3 and 20 without prejudice and have amended claim 1 to recite a method comprising administering an agent to a mammal which has a disease selected from the group consisting of asthma and chronic airway remodeling. MacLeod does not teach

administering an agent to a mammal with asthma or chronic airway remodeling. Accordingly, MacLeod cannot anticipate any of claims 1, 4, 6, or 12-14.

New claims 21-25 are drawn to a method comprising administering an agent to a mammal with asthma or chronic obstructive pulmonary disease. MacLeod does not teach administering an agent to a mammal with asthma or chronic obstructive pulmonary disease. Accordingly, MacLeod cannot anticipate the invention of claims 21-25.

Applicants respectfully request reconsideration and withdrawal of the rejections.

Rejections under 35 U.S.C. § 103 over MacLeod in view of Hannon (2002) Nature 418:244-251 ("Hannon")

Claims 1, 2, 8 and 10 stand rejected under 35 U.S.C. § 103 as allegedly unpatentable over MacLeod in view of Hannon. Applicants have canceled claim 2 without prejudice and have amended claim 1 to recite a method comprising administering an agent to a mammal which has a disease selected from the group consisting of asthma and chronic airway remodeling. Neither MacLeod nor Hannon teaches or suggests administering an agent to a mammal which has a disease selected from the group consisting of asthma and chronic airway remodeling. Accordingly, even in combination, MacLeod and Hannon cannot render obvious claim 1, 8, or 10.

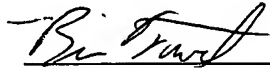
Applicants respectfully request reconsideration and withdrawal of the rejections.

Examiner Lin is invited to telephone the undersigned attorney to discuss any remaining issues.

Respectfully submitted,

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